

No. 18-1083 and No. 18-1106

**United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

MIKE-SELL’S POTATO CHIP COMPANY, : **Board Case No. 09-CA-094143**

Petitioner and Cross-Respondent, :

v. :

NATIONAL LABOR RELATIONS BOARD, :

Respondent and Cross-Petitioner. :

**UNOPPOSED MOTION FOR TWO-WEEK EXTENSION OF TIME FOR
MIKE-SELL’S TO FILE ITS REPLY BRIEF**

Petitioner/Cross-Respondent Mike-sell’s Potato Chip Company (“Mike-sell’s” or “Company”) respectfully moves this Court for a two-week extension of time for filing its Reply Brief in this case, with a new deadline of Friday, January 18, 2019. In support of this Unopposed Motion, Mike-sell’s states as follows:

1. Mike-sell’s filed its Principal Brief on August 31, 2018, after requesting and receiving one prior unopposed 60-day extension of time pursuant to this Court’s first amended briefing schedule.

2. On September 6, 2018, the Respondent/Cross-Petitioner National Labor Relations Board (“Board”) requested and received an unopposed 30-day extension of time to file its Principal Brief, in accordance with this Court’s second amended briefing schedule.

3. Prior to the deadline for its Principal Brief, the Board filed a Motion to Strike, which the parties briefed throughout September 2018. After motion practice was complete, the Court’s second amended briefing schedule was suspended pending disposition of the Board’s Motion to Strike.

4. On November 19, 2018, the Court issued a *Per Curiam* Order referring the Board’s Motion to Strike to the merits panel and directing the Clerk to set the remainder of the merits briefing schedule. The Clerk thereafter set a new deadline for the Board’s Principal Brief of December 21, 2018, and a new deadline for the Company’s Reply Brief of January 4, 2019.

5. Jennifer R. Asbrock, Esq. has primary responsibility for preparing the Company’s Reply Brief, along with her law firm’s appellate group staff. Ms. Asbrock presently has a medical condition that requires a strict treatment schedule and reduces her work availability from mid- to late-December, when she would need to begin drafting the Reply Brief. In addition, the two major holidays within the 14-day reply period create a void during which the Mike-sell’s Executive

Leadership Team (who must approve the Reply Brief for filing) and the undersigned counsel's appellate staff are frequently traveling and/or unavailable.

6. Consequently, it is not possible for Mike-sell's to comply with the new Reply Brief deadline set by the latest briefing schedule, despite due diligence and prioritization of this case.

7. Counsel for the Board has been consulted and has confirmed that the Board does not oppose a two-week extension of the deadline for the Company's Reply Brief.

WHEREFORE, Mike-sell's respectfully requests that the Court grant this Unopposed Motion and extend the time for filing the Company's Reply Brief until January 18, 2019.

Dated: November 21, 2018

Respectfully submitted,

FROST BROWN TODD LLC

s/ Jennifer R. Asbrock

Jennifer R. Asbrock

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Counsel for Petitioner/Cross-Respondent

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), Petitioner/Cross-Respondent Mike-sell's Potato Chip Company certifies that its Unopposed Motion contains 705 words of proportionally-spaced, 14-point type, and the word-processing system used was Microsoft Word 2016.

Respectfully submitted,

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s/ Jennifer R. Asbrock

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Counsel for Petitioner/Cross-Respondent

CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2018, Petitioner/Cross-Respondent Mike-sell's Potato Chip Company electronically filed the foregoing with the Clerk of the United States Court of Appeals for the District of Columbia Circuit by using the CM/ECF system, constituting service on the following CM/ECF user(s):

Linda Dreeben, Esq.
Kira Dellinger Vol, Esq.
Micah Jost, Esq.
National Labor Relations Board
1015 Half Street, SE
Washington, DC 20570
Counsel for Respondent NLRB

Also, on November 21, 2018, Petitioner served a copy of the foregoing by regular U.S. mail on the following:

Garey E. Lindsay, Regional Director
NLRB - Region 9
3003 John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271

Office of the General Counsel
c/o NLRB
1015 Half Street SE
Washington, D.C. 20570-0001

s/ Jennifer R. Asbrock
Jennifer R. Asbrock